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We have completed an audit of the Division of Environmental Protection. This audit is part of the ongoing program of the Legislative Auditor as authorized by the Legislative Commission. The purpose of legislative audits is to improve state government by providing the Legislature, state officials, and Nevada citizens with independent and reliable information about the operations of state agencies, programs, activities, and functions. The results of our audit, including findings, conclusions, recommendations, and the Division's response, are presented in this report.

We wish to express our appreciation to the management and staff of the Division of Environmental Protection for their assistance during the audit.

Respectfully presented,

A handwritten signature in black ink, appearing to read "Paul V. Townsend".

Paul V. Townsend, CPA
Legislative Auditor

October 7, 2003
Carson City, Nevada

STATE OF NEVADA
DEPARTMENT OF CONSERVATION
AND NATURAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION

AUDIT REPORT

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EXECUTIVE SUMMARY

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES DIVISION OF ENVIRONMENTAL PROTECTION

Background

The Division of Environmental Protection (Division) is responsible for implementing statewide regulatory programs to protect the environment, and health and welfare of the public. Programmatic areas include air quality, water quality, hazardous and solid waste management, mining reclamation, highly hazardous chemicals and alternative fuels, federal facilities, and water pollution issues. The Division also provides staff support to the State Environmental Commission, the Board to Review Petroleum Claims, and the Board for Financing Water Projects.

The Division accomplishes its mission with an Administrative unit and two offices that manage the activities of the Division's nine bureaus. The Division is located in Carson City and Las Vegas and had 194.5 full-time equivalent positions as of April 2003. Many of the Division bureaus collect fees, taxes, and reimbursements from regulated entities that support a majority of the Division's activities. Other significant sources of revenue include federal grants, bonds, and interest. The Division had total revenues of \$47 million for fiscal year 2002.

Purpose

The purpose of this audit was to determine if revenues were collected in accordance with laws, regulations, and Division policies and procedures. The audit included a review of the Division's revenue processes for collecting, receipting, and recording fees, taxes and reimbursements for calendar year 2002.

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Results in Brief

While the Division has controls over revenue once it is received, weaknesses exist over the collection of fees and reimbursable expenditures. We found improvements are necessary to ensure revenue is collected accurately, timely, and in accordance with laws and regulations. Insufficient controls contributed to the Division not collecting about \$131,000 in revenues and allowing a hazardous waste facility to take a refund of \$78,000 without validating its accuracy.

Current efforts to ensure all revenues owed the Division are collected could be improved. Specifically, quarterly collection reports contain errors and omissions resulting in an understatement of the Division's total accounts receivable. In addition, uncollectible amounts are carried on debt collection reports even though state laws and procedures exist for write off. Furthermore, the Division bills bankrupt and abandoned facilities for annual fees when the likelihood of collection is minimal. Finally, the Division does not pursue all available collection techniques. Because of these weaknesses, the Division is at risk of losing thousands of dollars in revenue and may be giving unrealistic expectations of amounts owed the State.

Principal Findings

- Hazardous waste fee reports were not accurate or complete. A majority of the hazardous waste fees collected by the Division are generated by the State's only commercial hazardous waste landfill facility. The facility pays fees for the treatment, storage, and disposal of hazardous waste ranging from \$1.50 to \$33.14 per ton, based on waste type. However,

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complete waste shipments and portions of other shipments were omitted from quarterly reports. An additional \$43,000 in fees was subsequently collected after we identified shipment omissions from facility reports. (page 11)

- Three of the 4 quarterly reports we reviewed contained mathematical errors. These mathematical errors prompted the facility to revise the third quarter 2002 report and reduce fees by approximately \$78,000. While this refund may be valid, the Division allowed the facility to take this credit without verifying its accuracy. (page 12)
- The Division did not recover all expenditures for environmental clean-up sites. Approximately \$87,500 in expenditures went unrecovered over a four-year period because reimbursements were not sought. In addition, the Division lost the opportunity to earn interest because expenditures were allowed to remain outstanding for extended time periods. (page 12)
- About half of the permits we reviewed were issued months and even years after old permits expired. State laws and regulations limit permit periods to five years. As a result, renewal fees are not collected every five years as anticipated and the Division may be at risk of losing revenue in future years if current practices continue. (page 14)
- Although regulations established permit fees, amounts charged sometimes varied from regulations. We found 3 of 15 permit holders were charged fees based on highest permit processing levels instead of current permit limitations. Management indicated fees are charged at the higher rate because regulatory requirements do not decrease as processing rates decline. (page 15)

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- Quarterly debt collection reports prepared by individual Bureau's were often inaccurate or incomplete. Reports omitted prior year fees and reimbursements, had incorrect amounts, and had computational errors. This resulted in an understatement of Division receivables. Even though not all accounts receivable are collectible, accurate accounts receivable information is essential if the Division is to effectively pursue receivables due from its permit holders and others. (page 16)
- The Division has not written off accounts receivable, even though some are designated as uncollectible and others are for facilities that are bankrupt or abandoned. Realistically these amounts will not be collected and should be written off. State law authorizes agencies to write off uncollectible debts with the approval of the State Board of Examiners. However, the Division does not have procedures guiding when amounts should be considered for write off. (page 17)
- The Division could employ additional collection techniques to ensure outstanding amounts are paid. Our review found collection letters were not prepared or were done sporadically, permit provisions were not always enforced, and late payment penalties were not assessed. Our analysis showed the Division did not receive, on average, 37% of fees we tested totaling \$1.3 million by established due dates. Since the Division is primarily funded by fees, not actively pursuing outstanding fees could impact the Division financially. (page 18)

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Recommendations

This report contains eight recommendations to improve the Division's revenue process. Specifically, the Division should review hazardous waste fee reports for accuracy and completeness, establish processes to ensure clean-up costs are reimbursed timely, and ensure permits are renewed timely and fees are collected in accordance with regulations. In addition, the Division needs to develop policies and procedures to ensure debt collection reports are accurate and bad debts are identified, evaluated, and written off as state laws allow. Furthermore, the Division should provide guidance regarding the assessment of annual fees on bankrupt and abandoned facilities and pursue all available collection techniques. (page 30)

Agency Response

The Division, in its response to our report, accepted all eight recommendations. (page 27)

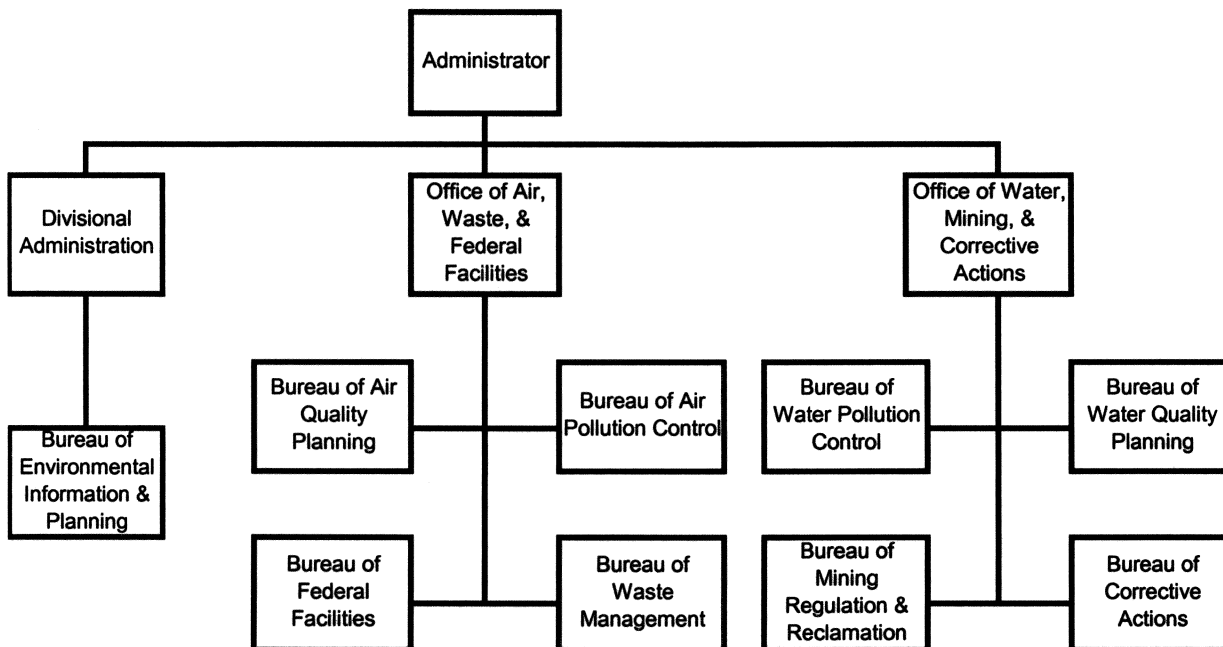
Introduction

Background

The Division of Environmental Protection (Division) is responsible for implementing statewide regulatory programs to protect the environment, and health and welfare of the public. The Division's mission is to protect and enhance the environment of the State consistent with public health and enjoyment, the propagation and protection of terrestrial and aquatic life, the operation of existing industries, the pursuit of agriculture, and economic development activities. Programmatic areas include air quality, water quality, hazardous and solid waste management, mining reclamation, highly hazardous chemicals and alternative fuels, federal facilities, and water pollution issues. Since January 2003, the Division has accomplished its mission with an Administrative unit and two offices that manage the activities of the Division's nine bureaus as shown in Exhibit 1.

Exhibit 1

**Division of Environmental Protection
Organizational Chart**



Source: Division of Environmental Protection's web site.

The organizational responsibilities of each unit are as follows.

- Administration – Provides financial and human resource management oversight to Bureaus.
- Bureau of Environmental Information and Planning – Manages the Division's computer needs and provides computer management and support to all other Bureaus within the Division. This Bureau also includes an ombudsman who assists regulated clients and members of the public with environmental laws and regulations.
- Bureau of Air Quality Planning – Maintains levels of air quality that will protect human health and prevent injury to the environment. This includes planning to ensure state and federal air quality standards are not exceeded, maintaining an ambient air monitoring network, and implementing a statewide smoke management program.
- Bureau of Air Pollution Control – Implements and enforces state and federal regulations to prevent, abate, and control air pollution from all stationary and temporary sources. The Bureau issues permits and determines compliance by monitoring reports, on-site inspections, and enforcement actions.
- Bureau of Federal Facilities – Oversees environmental remediation activities being performed on federal lands that are historically contaminated. The Bureau also permits and regulates water pollution control and waste management operations on Department of Energy facilities.
- Bureau of Waste Management – Plans, regulates, and permits activities to ensure environmentally sound management of solid and hazardous waste.
- Bureau of Water Pollution Control – Protects the waters of the State from the discharge of pollutants. This includes issuing permits, conducting inspections, enforcing permit requirements, administering the State Revolving Loan Fund program, reviewing and approving the design of treatment facilities, reviewing subdivision plans, and conducting training and certification programs.
- Bureau of Water Quality Planning – Plans, directs, and coordinates the establishment of water quality standards and monitors the attainment of those standards. This includes collecting and analyzing water data, developing standards for surface waters, publishing reports, and implementing programs for surface water quality.
- Bureau of Mining Regulation and Reclamation – The regulation, mine closure, and reclamation branches ensure water quality is not adversely impacted by mining, mine closures are stable, and land is returned to productive post mining

use. This is accomplished by issuing permits, conducting inspections, enforcing permit conditions, and initiating regulatory actions.

- **Bureau of Corrective Actions** – Oversees remediation and corrective actions related to the clean-up of releases of hazardous and regulated chemicals using a multi-media approach. The Bureau uses funds to pay the cost of investigations and clean-up of contamination from tanks that have leaked, administers the federal superfund grant, and certifies environmental consultants to provide clean-up services.

The Division provides staff support to the State Environmental Commission, the Board to Review Petroleum Claims, and the Board for Financing Water Projects. Exhibit 2 details each commission or board and its function.

Exhibit 2

**Division of Environmental Protection
Associated Commissions and Boards**

Commission/ Board	Composition	Function
State Environmental Commission	11 member commission composed of citizens and agency administrators	<ul style="list-style-type: none"> • Adopts environmental rules, regulations, and plans to protect the environment and public health and welfare. • Acts as appeal body to actions of the Division.
Board to Review Petroleum Claims	7 members composed of agency administration, industry representatives, and the general public	<ul style="list-style-type: none"> • Approves payments from the State Petroleum Fund for reimbursement of corrective action costs associated with petroleum product releases. The Fund also covers underground storage tanks, non-commercial heating oil tanks, and certain non-regulated tanks.
Board for Financing Water Projects	5 members appointed by the Governor and 1 ex-officio member	<ul style="list-style-type: none"> • Reviews and decides requests for grants for capital improvements to publicly owned small water systems and for water conservation projects. • Approves loans for water system construction under the State Revolving Loan Funds and for the management, control, delivery, and use or distribution of water pursuant to NRS 349.935.

Source: Division of Environmental Protection web site, strategic plan, and State statutes and regulations.

The Division is principally funded by fees, taxes, and reimbursements collected by the Division’s nine Bureaus from regulated entities. The Division also received federal grants and bonds and approximately \$400,000 in a General Fund appropriation

for fiscal year 2002. Exhibit 3 shows the Division's sources of revenue, exclusive of transfers and General Fund appropriations, for fiscal year 2002.

Exhibit 3

**Division of Environmental Protection
Revenue by Source
Fiscal Year 2002**

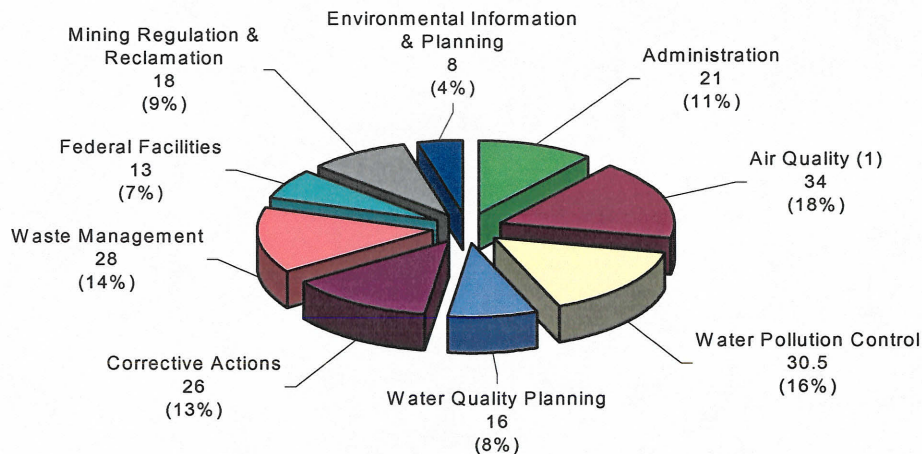
Revenue Source	Amount	Percent of Total
Fees/Taxes/Reimbursements	\$22,359,789	47.5%
Federal Funds	8,874,186	18.9%
Interest/Principal on Water Pollution Control Bonds	8,173,449	17.4%
Sale of Bonds	5,369,633	11.4%
Treasurer's Interest	2,218,017	4.7%
Other	46,897	0.1%
Total	\$47,041,971	100%

Source: State accounting system.

The Division's main office is in Carson City. The Division also has a Las Vegas office that is administered by an office manager and comprised of branches of the following Bureaus: Air Pollution Control, Corrective Actions, Federal Facilities, Waste Management, and Water Pollution Control. As of April 2003, the Division had 194.5 full-time equivalent positions. Exhibit 4 shows the breakdown of authorized positions by the Bureau.

Exhibit 4

**Division of Environmental Protection
Authorized Positions by Bureau
As of April 2003**



Source: Division of Environmental Protection Human Resource records.
(1) – Bureau's of Air Quality Planning & Air Pollution Control Combined.

Scope and Objective

This audit is part of the ongoing program of the Legislative Auditor as authorized by the Legislative Commission, and was made pursuant to the provisions of NRS 218.737 to 218.893. The Legislative Auditor conducts audits as part of the Legislature's oversight responsibility for public programs. The purpose of legislative audits is to improve state government by providing the Legislature, state officials, and Nevada citizens with independent and reliable information about the operations of state agencies, programs, activities, and functions.

The audit included a review of the Division's revenue processes for collecting, receipting, and recording of fees, taxes, and reimbursements. The scope of our testing was calendar year 2002. The objective of our audit was to determine if revenues were collected in accordance with laws, regulations, and Division policies and procedures.

Findings and Recommendations

Revenue Processes Can Be Strengthened

While the Division has controls over revenue once it is received, weaknesses exist over the collection of fees and reimbursable expenditures. We found improvements are necessary to ensure revenue is collected accurately, timely, and in accordance with laws and regulations. Insufficient controls contributed to the Division not collecting about \$131,000 in revenues and allowing a hazardous waste facility to take a refund of \$78,000 without validating its accuracy.

Fee Reports Require Review to Ensure Accuracy

Reports supporting hazardous waste treatment, storage, and disposal fees owed the Division were not accurate or complete. Reports omitted complete and partial waste shipments and contained mathematical errors that resulted in an under reporting of fees by at least \$43,000. These errors went undetected because the Division did not review reports for reasonableness or perform other procedures to ensure their accuracy.

A majority of the hazardous waste fees collected by the Division are generated by the State's only commercial hazardous waste landfill facility. The facility pays fees for the treatment, storage, and disposal of hazardous waste ranging from \$1.50 to \$33.14 per ton, based on waste type. These fees are set forth in regulation, statute, or settlement agreement. Reports detailing the waste shipments and corresponding fees are submitted to the Division quarterly. The Division received over \$1.2 million dollars in fees from this facility for calendar year 2002.

In reviewing the quarterly reports for calendar year 2002, we found complete waste shipments and portions of other shipments were omitted. As many as 176 separate shipments were not included on calendar year 2002 fee reports. Because of the discrepancy, we requested an explanation for the missing shipments. In response to our inquiry, the facility stated:

...we have not been able to confirm that the information for the specific manifests was properly reported. ...we have re-reported all the information for these work orders and have included the appropriate fee payments.

As a result, the facility reported 154 of the missing shipments on the 1st quarter 2003 report and remitted an additional \$43,000 in fees.

While the facility may have reported a majority of omitted waste shipments, there remains a potential that partial shipments remain unreported. As further stated by the facility:

The existing reporting software is outdated. Recent experience has shown the software to be unreliable in reporting all shipments received. ...(The facility) has made a significant good faith effort to capture all shipments for reporting in the 1st Quarter Report for 2003, including any shipments that were not reported in 2002.

The facility's inability to determine the accuracy of its reports fails to provide adequate assurance that all shipments have been reported and applicable fees paid.

In addition, three of the four quarterly waste volume fee reports tested contained mathematical errors. Most errors were due to fee amounts being inadvertently omitted from column calculations and report totals. For example, our review of the third quarter 2002 report found it contained numerous errors, so we asked the Division to review this report with the facility. As a result, the facility revised its third quarter report and requested a refund of approximately \$78,000. While this refund may be valid, the Division allowed the facility to take the credit without verifying its accuracy. Given the omissions and inaccuracies found on the facility's reports, the Division should have verified the refunds accuracy, before allowing the facility to take the credit.

These errors went undetected by Division personnel because waste volume fee reports were not reviewed. Division management stated:

In terms of 'accuracy' or correctness of the reported volumes, your understanding is correct that no policies and procedures have been clearly established to perform this evaluation.

Given the errors found on calendar year 2002 reports, it is likely the Division failed to collect all amounts due from prior years.

Improvement in the Reimbursement Process Needed

The Division did not recover all expenditures for environmental clean-up sites. In addition, many of the reimbursement requests were not prepared timely or in accordance with agreement terms. As a result, \$87,500 in expenditures went

unrecovered and the Division lost the opportunity to earn interest on amounts that remained outstanding for extended time periods.

Expenditures Not Recovered

Our review of reimbursable costs for environmental clean-up sites found the Division did not finalize consent agreements, prepare reimbursement requests, and properly track all costs. As a result, the Division neglected to request costs from two of eight identified clean-up sites and did not properly account for costs on another site. This occurred because the Division does not have procedures in place to ensure all appropriate costs are recovered.

The Division oversees the clean-up of large environmentally contaminated sites. When these sites are identified, the Division enters into an agreement that sets forth the terms in which the clean-up will be completed. These agreements request the responsible party reimburse the Division for its oversight costs. However, agreements were not always finalized when they should have been. In one instance, the Division identified a clean-up site and began tracking expenditures for oversight costs in 1998 but failed to secure a consent agreement. Because of this, approximately \$73,000 in oversight expenditures incurred over a 4-year period remain unrecovered.

The Division also did not always ensure expenditures were tracked and requested for reimbursement when agreements were finalized. In order to determine the amount of expenditures associated with a particular clean-up site, the Division must establish specific tracking codes for each site and prepare billings to each responsible party. However, approximately \$9,500 of expenditures incurred by the Division went unbilled even though an agreement allowing the Division to recover oversight costs was in place. Furthermore, coding to track expenditures was not always established in a timely manner. We found expenditures were not tracked on one clean-up site until almost 7 months after the agreement was finalized. As a result, we estimate the Division lost between \$5,000 and \$13,000 of recoverable expenditures.

State regulations allow the Division to recover oversight expenditures; yet, thousands of dollars spent to oversee remediation efforts remain unreimbursed. It is essential the Division have controls to ensure all possible costs are identified and recovered from responsible parties.

Timely Preparation of Reimbursement Requests Needed

The Division did not always prepare billing requests timely. Four of five Division billing requests, amounting to thousands of dollars, were not prepared in accordance with consent agreements. Consent agreements state billings shall be prepared and submitted to responsible parties on a quarterly basis. In addition, two billings had several years worth of expenditures included in one billing. Expenditures amounting to approximately \$20,000 had been tracked from 1999 but were not requested for reimbursement until December 2002.

Timely request of paid expenditures is essential for the Division to properly monitor their budget accounts. By allowing expenditures to remain outstanding for extended time periods, the Division lost the use of that money and any associated interest earnings.

Following Laws and Regulations Essential to Accurate Fee Collection

The Division is not always following laws and regulations regarding issuance of permits and charging of annual fees. Permit renewals occurred months and years after expiration dates resulting in operating periods exceeding the 5-year permit limits imposed by statutes and regulations. If this problem continues, the Division may not collect all fees it is due. In addition, some facilities were charged higher amounts than corresponding fees in regulation. As a result, these facilities paid more than required.

Permits Exceeded Lengths Established in Statute

Even though facilities paid required renewal fees, about half of the permits reviewed were issued months and even years after old permits expired. Our review of Division files found 42 of 87 permits were not issued as old permits expired. State laws and regulations limit permit lengths to a period of not more than 5 years. Division regulations also allow entities to operate under expired permits if certain conditions are met. Division management indicated that due to environmental law changes and other factors, it is not always feasible to renew permits every 5 years.

Issuing permit renewals late has resulted in the Division not collecting renewal fees every 5 years. Exhibit 5 shows examples of permits exceeding expiration dates. If the Division continues issuing permits untimely, it could lose the collection of a renewal fee altogether. For instance, facility #4 experienced a lag between permits of 53

months. A delay of 7 months in the future could result in the Division losing a \$6,300 renewal fee from the facility. While permit renewal fees may change in the future, current fees related to those facilities displayed in exhibit 5 range from \$2,000 to \$14,000.

Exhibit 5

**Division of Environmental Protection
Permit Renewal Periods**

Permit Tested	Current Issuance Date	Prior Permit Expiration Date	Months Permit Outstanding
Facility #1	01/23/02	10/18/99	27
Facility #2	01/26/00	09/19/97	28
Facility #3	12/31/02	10/09/00	27
Facility #4	01/14/99	08/01/94	53
Facility #5	07/10/01	10/15/98	33

Source: Division of Environmental Protection permit files.

Fees Assessed Conflict With Regulations

Although regulations establish permit fees, amounts charged sometimes varied from regulations. The Bureau of Mining Regulation and Reclamation charged some permit holders higher fees than allowed. Mining’s fees are based on the tonnage of ore processed each year at the facility. Fees range from a low of \$250 for processing less than 18,250 tons of ore to a high of \$20,000 for processing in excess of 2 million tons. Our testing indicated that some entities were charged fees based on their highest permitted processing rates even though current permits did not allow the processing of ore. We found 3 of 15 permits tested were no longer actively mining. However, the Division billed each facility a fee equal to those processing rates in effect at the time the mine was active. For one facility, this amounted to a \$13,750 difference in annual fees paid.

Management indicated fees are charged based on the highest previous permitted levels during the mine life to offset regulatory requirements. This is done because regulatory oversight requirements continue even as processing rates decline. It is reasonable that oversight responsibilities do not necessarily lessen as processing

decreases and the facility begins the closure process. However, fees should be charged in accordance with regulations.

Recommendations

1. Review hazardous waste volume reports to ensure they are accurate and complete.
2. Establish a written process to ensure environmental clean-up agreements are prepared and all costs are reimbursed from responsible parties timely.
3. Revise procedures to improve the timeliness of permit renewals.
4. Assess mining fees in accordance with regulations.

Accounts Receivable Policies Need Improving

Current efforts to ensure all revenues owed the Division are collected could be improved. Specifically, quarterly collection reports contain errors and omissions resulting in an understatement of the Division's total accounts receivable. In addition, uncollectible amounts are carried on debt collection reports even though state laws and procedures exist for write off. Furthermore, the Division bills bankrupt and abandoned facilities for annual fees when the likelihood of collection is minimal. Finally, the Division does not pursue all available collection techniques. Because of these weaknesses, the Division is at risk of losing thousands of dollars in revenue and may be giving unrealistic expectations of amounts owed the State.

Quarterly Collection Reports Not Accurate or Complete

Each Bureau prepares quarterly debt collection reports, but these collection reports are often inaccurate or incomplete. The Division's reports omitted prior year fees and reimbursements, had incorrect amounts, and had computational errors. In one instance, a Bureau removed all receivable amounts from debt collection reports at the end of each fiscal year. This resulted in an understatement of at least \$210,000 on the fiscal year 2003 debt collection report, since outstanding fees prior to fiscal year 2003 were not included. In another instance, 12 of the 23 receivable accounts reviewed had

incorrect balances listed on the Division's collection reports. These errors resulted in an understatement of approximately \$263,000. Furthermore, reimbursement billings totaling about \$107,000 were not included on Division debt collection reports as of December 2002. Division management confirmed these amounts are not routinely included on debt collection reports even though they may be outstanding several months. Finally, the reports were inaccurate since mathematical errors occurred on some Bureau reports.

Omissions, errors, and inconsistencies occurred on quarterly debt collection reports because the Division does not have policies and procedures guiding individual Bureaus in preparing and reviewing their reports. NRS 353C.120 requires each agency submit to the State Controller periodic reports for the debts owed to the agency. In order to meet this requirement, the Division must maintain accurate and complete records of its accounts receivable. Even though not all accounts receivable are collectible, accurate information is essential if the Division is to effectively pursue amounts due from its permit holders and others.

Uncollectible Accounts Need Attention

The Division has not written off accounts receivable, even though some are designated as uncollectible and others are for facilities that are bankrupt or abandoned. Realistically these amounts will not be collected and should be written off in accordance with State law. NRS 353C.220 authorizes agencies to write off uncollectible debts with the approval of the State Board of Examiners. Recently, the Department of Administration expressed concern about the quantity of delinquent accounts being carried by State agencies. Not writing off uncollectible accounts can result in potentially overstating receivable balances and may give unrealistic expectations of amounts the State can collect.

One Bureau indicated 63 of its 78 receivable balances totaling \$463,000 were not collectible. However, the Division continues to carry these balances from one report to the next. The Division also continues to bill bankrupt and abandoned facilities annual fees. One entity that was billed fees for fiscal years 2000, 2001, and 2002, disputed whether amounts were valid since the company's bankruptcy proceedings were finalized. In a letter dated May 10, 2002, the company stated:

The (bankruptcy) plan provides for the acquisition of all assets by the reorganized company, free and clear of all liens, claims, and interests of creditors, equity holders, and other parties in interest except as otherwise provided in the plan... The Company does not believe it should pay fees for a permit that does not accurately reflect the property that it owns and has (not) owned for two of the three years in question.”

Continuing to bill bankrupt and abandoned facilities can overstate the Division's receivable balances.

Division management expressed concern about when accounts should be written off, indicating facilities are generally billed annual fees until permits become inactive. Permits stay active until the sites are environmentally stable. However, given the limited collection techniques used by the Division, continuing to bill facilities when collection is unlikely is not an efficient use of Division resources. Furthermore, the Division's policies and procedures should address management's concerns and identify when billings will be continued or stopped, and accounts written off.

Limited Collection Techniques Used

The Division could employ additional collection techniques to ensure outstanding amounts are paid. Our review found collection letters were not prepared or were done sporadically, permit provisions were not always enforced, and late payment penalties were not assessed. The limited collection efforts are caused, in part, because the Division has not developed collection procedures. Our analysis showed the Division did not receive, on average, 37% of fees we tested totaling \$1.3 million by established due dates. Since the Division is primarily funded by fees, not actively pursuing outstanding fees could impact the Division financially. It is important to use all available collection methods to maximize recovery efforts.

State law and the State Administrative Manual provide guidance regarding the collection of amounts due. These techniques include issuing payment request letters for 30 and 60 day delinquent amounts, phone calls, arranging payment plans, and credit reporting. In addition, debts greater than 60 days should be pursued by offset or considered for general collection remedies including debt collection agencies or transfer to the State Controller.

Eighteen of the 23 receivables we reviewed had some evidence of collection efforts. However, the collection efforts were generally limited to sporadic notices

reminding permit holders of unpaid fees. For instance, some notices sent by the Division were prepared months after fees were originally due, while other notices were sent within weeks of fee due dates. Either way, additional notices or evidence of other collection efforts could not be found in Division files. Further, several files we reviewed contained notices for current year fees even though other amounts remained outstanding from prior years. Frequent and accurate notices could help the Division collect fees more timely.

Some Bureaus do not always enforce permit provisions for facilities whose annual fees were delinquent. For instance, in February 2000, one Bureau notified a facility that their permit is subject to cancellation if annual fees for 1999 and 2000 were not received. However, the Bureau allowed the permit holder to continue to operate even though payment was not received until July 2001, over a year later. Conditions in permits require payment of annual fees. Yet, the Division is not always using permit provisions to assist in the collection of delinquent accounts.

Finally, the Division could assess late payment penalties in order to encourage payment of fees by due dates. Many of the Division's Bureaus do not impose late payment penalties on permit holders who do not submit fees timely. Two of the Division's Bureaus currently have regulations allowing them to impose late payment penalties. These penalties range from 2% per month or any portion thereof where amounts are outstanding to a 25% penalty on amounts received at least 30 days late. Our analysis indicated the Division could have assessed penalties ranging from \$13,000 to \$54,000 depending on which penalty was applied. Late payment penalties provide incentives for permit holders to pay timely.

Utilizing all available collection efforts should go a long way in improving collections. A U.S. Department of Labor Technical Assistance Guide published in 1998 stated time is a critical factor in the recovery of overdue amounts. Limited collection efforts can impact the collectibility of fees since the older an account gets, the less likely it will be collected.

Recommendations

5. Develop policies and procedures to ensure quarterly debt collection reports are accurate and complete.

6. Establish a process to identify, evaluate, and write off uncollectible amounts in accordance with NRS 353C.
7. Provide written guidance regarding the assessment of annual fees for facilities that are designated as bankrupt, abandoned, or not collectible.
8. Pursue available collection techniques including frequent billings, enforcing permit provisions, canceling permits, and charging late payment penalties.

Appendices

Appendix A Audit Methodology

To gain an understanding of the Division of Environmental Protection, we interviewed Division management and staff, and reviewed laws, policies, and procedures significant to the administration of the Division. We also reviewed the Division's strategic plan, prior audit reports, financial reports, budgets, and other information describing activities of the Division. In addition, we reviewed key control processes and assessed their susceptibility to risk. Our assessment included the general control environment, financial environment, and programmatic areas.

To accomplish our audit objective, we selected 232 permitted facilities, 50 certificate holders, and 30 petroleum tank assessments for testing. Programmatic areas included Air Quality, Mining Regulation and Reclamation, Hazardous Waste Management, Chemical Accident Prevention Program, and Water Pollution Control. Prior to selecting our samples, we traced pertinent information such as facility, address, permit issuance, and expiration dates from Division files to database information to ensure our population was complete. Our samples were generated using random, non-biased, and judgmental sampling methods.

For permit fees, certification fees, and petroleum tank assessments we verified that amounts requested and received agreed to applicable laws and regulations and permit and inspection data when applicable. Permits and certifications were also reviewed to determine if issuance, modification, and renewal fees were collected in accordance with state laws and regulations. In addition, we traced receipts to deposit records and determined if amounts were recorded timely and accurately. We then determined if amounts were received by the due date and calculated the number of days past due if applicable. Those amounts outstanding at December 31, 2002 were traced to Division debt collection reports.

For hazardous waste volume fee reports, we tested the mathematical accuracy by calculating totals and computations. We also traced supporting documentation to reports to verify all amounts were properly included on reports and volumes were accurate. As necessary, we contacted facilities and asked the Division to clarify and verify procedures, issues, and questions.

For taxes received by the Division, we reviewed and analyzed supporting documentation gathered by the Division. To verify the accuracy of receipts, we contacted agencies responsible for collecting amounts due and requested additional information. We then reviewed tax schedules and returns to determine if amounts transferred were appropriate. We also recalculated supporting documentation and reviewed them for reasonableness.

For reimbursements, we recalculated billings to verify totals were mathematically accurate. We also reviewed cooperative agreements and noted if billings were prepared timely and in accordance with agreement terms. We then traced receipts to deposit information and verified its timeliness and accuracy. If necessary, we calculated the days outstanding and traced amounts to applicable debt collection reports. Furthermore, we calculated interest earnings lost on billings and collections that were not timely based on reported Treasurer's interest rates.

Finally, we reviewed debt collection reports for accuracy and the Division's use of late fees. In addition, we selected 20 accounts from various Division Bureaus and reviewed files to verify if the Division pursued collection of outstanding amounts by using various collection techniques. We also determined if the Division identified uncollectible amounts and went through the process to write off these amounts. Lastly, we reviewed cash receipts for 3 fees the Division collects and calculated the percentage of fees received after 30 days. We then applied established Division late fees to those amounts and calculated late fees that the Division could have assessed in order to entice payment.

Our audit work was conducted from October 2002 to May 2003, in accordance with generally accepted government auditing standards.

In accordance with NRS 218.821, we furnished a copy of our preliminary report to the Director of the Department of Conservation and Natural Resources and the

Administrator of the Division of Environmental Protection. On September 19, 2003, we met with agency officials to discuss the results of the audit and requested a written response to the preliminary report. That response is contained in Appendix D which begins on page 27.

Contributors to this report included:

Shannon Ryan, CPA
Deputy Legislative Auditor

Todd Peterson
Deputy Legislative Auditor

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Deputy Legislative Auditor

Timothy Brown, CPA
Audit Supervisor

Stephen M. Wood, CPA
Chief Deputy Legislative Auditor

Appendix B

Prior Audit Recommendations

As part of our audit, we requested the Division of Environmental Protection determine the status of four recommendations made in our 1995 audit. The Division reported all four recommendations have been fully implemented. These recommendations addressed inspection and enforcement procedures for the Bureau of Water Pollution Control. The scope of our current audit did not address these issues. As such, we did not verify the status of our prior recommendations.

Appendix C

Division Fees Tested

Bureau	Fee	Authority	Description
Air Pollution Control	Air Quality Operating Permit	NRS 445B.100 – NRS 445B.155, NAC 445B.001 – NAC 445B.3485	Permit required prior to the construction and operation of any building, structure, facility or installation (including a temporary source) which emits or may emit any regulated pollutant.
Corrective Actions	Certified Environmental Manager	NAC 459.970 – NAC 459.9729	Certification required of any person performing environmental audits or consulting for a fee in matters concerning the release, clean-up, remediation, or management of hazardous waste.
	Certified Specialist in the Management of Hazardous Waste	NAC 459.970 – NAC 459.9729	Certification required of any person consulting for a fee in matters concerning the management of hazardous waste.
	Certified Handler of Underground Storage Tanks (UST)	NAC 459.970 – NAC 459.9720	Certification required of any person installing, repairing, upgrading or closing a regulated UST for a fee.
	Certified Tester of UST	NAC 459.970 – NAC 459.9729	Certification required of any person testing the tightness of a UST for a fee.
	Enrollment of Above-Ground and Underground Tanks in the State's Petroleum Claims Fund	NAC 590.970 – NAC 590.790	All owners/operators of UST's storing designated petroleum fuels must show financial responsibility. Enrollment in this fund is voluntary.
Mining Regulation & Reclamation	Mining Water Pollution Permit	NAC 445A.350 – NAC 445A.447	Permit required prior to the construction of any mining, milling, or other beneficiation process activity that uses water of any source or quality that is biologically, chemically, or physically altered because of this use.
	Mining Reclamation Permit	NAC 519A.010 – NAC 519A.415	Permit required prior to initiation of any exploration or mining project which proposes surface disturbances greater than 5 acres.
Waste Management	Hazardous Waste Management Permit	NAC 444.842 – NAC 444.8746	Permit required prior to undertaking any activity constituting treatment, storage, and/or disposal of hazardous waste.

Appendix C

Division Fees Tested (continued)

Bureau	Fee	Authority	Description
Waste Management	Chemical Accident Prevention Program	NAC 459.952 – NAC 459.95528	Facility fees for those that produce, use, handle, or store designated quantities of highly hazardous substances or those facilities that manufacture explosives for resale.
	Fee for Purchase of New Tire	NRS 444A.090	A person who sells a new tire for any purpose other than for resale shall collect from the purchaser a fee of \$1 per tire.
Water Pollution Control	Groundwater Discharge Permit	NAC 445A.228 – NAC 445A.263	Permit required prior to the initiation of any activity that will or may result in a discharge of pollutants that has the potential to impact the ground waters of the state.
	Surface Water Discharge Permit	NAC 445A.070 – NAC 445A.225, NAC 445A.228 – NAC 445A.272, NAC 445A.283 – NAC 445A.302	Permit required before any discharge to surface waters or to an area where surface waters may be affected; includes dry washes.
	Underground Injection Control Permit	NAC 445A.810 – NAC 445A.925	Permit required prior to construction of an injection well or before the injection into an existing well for the production and storage of oil and gas and the extraction of minerals or energy.
	General Permits	NRS 445A.360, NRS 445A.395, NRS 445A.465, NRS 445A.475, NAC 445A.226 – NAC 445A.272, NAC 445A. 891 – NAC 445A.896	Permits required for a defined type of discharge including mining, industrial, construction, septic, oil/water separators, maintenance (rolling stock), and agriculture.
	Temporary Permits	NRS 445A.485, NAC 445A.890	Required before any discharge that may directly or indirectly affect waters of the State.
	Subdivision Review	NRS 278.335, NRS 278.377, NAC 278.010 – NAC 278.530	Review required for all tentative and final subdivision maps.

Appendix D

Response From the Division of Environmental Protection

ALLEN BIAGGI, *Administrator*

STATE OF NEVADA
KENNY C. GUINN
Governor

R. MICHAEL TURNIPSEED, *Director*

(775) 687-4670

Administration
Facsimile 687-5856

Water Pollution Control
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Mining Regulation and
Reclamation
Facsimile 684-5259



Waste Management
Corrective Actions
Federal Facilities

Air Pollution Control
Air Quality Planning
Water Quality Planning

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DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

DIVISION OF ENVIRONMENTAL PROTECTION

333 W. Nye Lane, Room 138

Carson City, Nevada 89706

September 25, 2003

Mr. Paul Townsend, CPA
Legislative Auditor
Legislative Counsel Bureau
401 S. Carson Street
Carson City, Nevada 89701-4747

Dear Mr. Townsend:

The Nevada Division of Environmental Protection has received the preliminary audit report for the agency wide audit conducted in late 2002 and extending into mid 2003. I would like to thank you and your staff for the professionalism exhibited in this effort. This letter constitutes the Division's formal written response to the audit and its associated recommendations. Attached to this letter is the response checklist provided with the preliminary draft.

Recommendation Number 1 – The Division agrees that hazardous waste volume reports submitted by the leaseholder need to be accurate and complete. The Division has developed audit procedures (in place as of 9/26/03) to evaluate disposal information from U.S. Ecology to ensure appropriate fees are paid. It should be noted that the Division fully reviewed and evaluated the applicable information and reports after the audit prior to allowing the \$77,802.37 credit in 2003.

Recommendation Number 2 – The Division agrees that written procedures and processes need to be developed to ensure environmental cleanup agreements are prepared and in place and that all costs are reimbursed from responsible parties in a timely fashion. The Division is developing policies and procedures regarding cleanup agreements (to be in place by the end of CY 2003) and has made the billing of responsible parties with these agreements a priority. The Division has commenced negotiations with AMPAC on a reimbursement agreement. Finally, as of September 2003 the Division has billed responsible parties for all outstanding obligations.

It should be noted that the Division does prioritize issues related to human health and environmental quality above billing. This may periodically result in delayed agreements and billings.

Mr. Paul Townsend, C.P.A.
September 25, 2003
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Recommendation Number 3 – The Division agrees that permit holders must pay fees in accordance with state statutes and regulations. In part, this recommendation was the result of the permit backlog present in the Water Pollution Control and the Mining Regulation and Reclamation programs. Due to change in Water Pollution Control staffing in 2000 and a renewed emphasis on permit renewals this backlog has been substantially reduced.

As outlined in the audit report, often there are sound policy, scientific, public health and environmental reasons for not immediately reissuing a permit. We do agree however that applicable fees must be collected on unexpired permits. The Division will take steps necessary to improve timeliness of permit renewals and the collection of associated fees.

Recommendation Number 4 – The Division fully agrees with this recommendation. In consultation with industry, the Bureau of Mining Regulation and Reclamation will evaluate the fee schedules to address permits for facilities undergoing closure.

Recommendation Number 5 – The Division fully agrees that debt collection reports need to be accurate and complete. The Division has developed a spreadsheet for agency wide use for debt collection reports. This will ensure the reports are numerically accurate. This spreadsheet will be available for use at the end of the first quarter FY 2004. Each DEP Bureau will develop guidelines for the inclusion of facilities on the reports according to their applicable statutes, regulations and program dynamics.

Recommendation Number 6 – The Division fully agrees that policies and procedures need to be in place agency wide to ensure debt is evaluated and written off where appropriate in accordance with NRS 353 C. Policy development is under way and should be in place by the end of the fourth quarter of CY 2003.

Recommendation Number 7 – The Division fully agrees that written guidance needs to be developed to assess the collection of annual fees for facilities designated as bankrupt, abandoned or not collectable. This issue is especially relevant in the Division's Mining Regulation and Reclamation programs. Policy development is under way and should be in place by the end of the fourth quarter of CY 2003.

Recommendation Number 8 – The Division agrees that it should utilize all the tools available to recover debt. Complicating this recommendation however is the variability of program debt collection statutory and regulatory authorities. With that said, the Division has embarked on an effort of developing policies and procedures in each of the DEP's major programs to ensure all statutory and regulatory options available to pursue

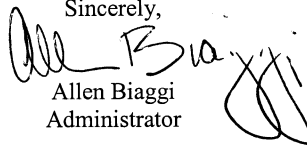
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debts are followed in a fair and consistent fashion. These policies should be in place by the first quarter of CY 2004.

In closing, the Division views the audit and its findings as a constructive effort to allow the agency to be more accountable to the taxpayer and the regulated communities it serves. I would once again like to thank you and the audit team for the professionalism and courtesies shown during the audit process.

If questions or comments arise concerning this response, please contact me at 687-9301.

Sincerely,



Allen Biaggi
Administrator

cc: R. Michael Turnipseed, P.E., Director, DCNR
Lucy Zeier, DCNR
Jolaine Johnson, P.E., Deputy Administrator
Leo Drozdoff, P.E., Deputy Administrator

Division of Environmental Protection Response to Audit Recommendations

<u>Recommendation Number</u>		<u>Accepted</u>	<u>Rejected</u>
1	Review hazardous waste volume reports to ensure they are accurate and complete	<u> X </u>	<u> </u>
2	Establish a written process to ensure environmental clean-up agreements are prepared and all costs are reimbursed from responsible parties timely.....	<u> X </u>	<u> </u>
3	Revise procedures to improve the timeliness of permit renewals	<u> X </u>	<u> </u>
4	Assess mining fees in accordance with regulations	<u> X </u>	<u> </u>
5	Develop policies and procedures to ensure quarterly debt collection reports are accurate and complete.....	<u> X </u>	<u> </u>
6	Establish a process to identify, evaluate, and write off uncollectible amounts in accordance with NRS 353C..	<u> X </u>	<u> </u>
7	Provide written guidance regarding the assessment of annual fees for facilities that are designated as bankrupt, abandoned, or not collectible	<u> X </u>	<u> </u>
8	Pursue available collection techniques including frequent billings, enforcing permit provisions, canceling permits, and charging late payment penalties.....	<u> X </u>	<u> </u>
	TOTALS	<u> 8 </u>	<u> 0 </u>